

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

Gary Kidgell,

NO. C 08-01965 JW

Plaintiff,

**ORDER DISMISSING COMPLAINT  
WITHOUT PREJUDICE FOR FAILURE TO  
PAY THE FILING FEE**

v.

The County of Santa Clara, et al.,

Defendants.

On April 15, 2008, Gary Kidgell ("Plaintiff") filed this action against the County of Santa Clara, the County of Santa Clara Office of the Sheriff, an unknown Deputy Sheriff Sargent, and unknown Deputy Sheriffs Department of Corrections Officers, alleging, *inter alia*, violations of his federal civil rights pursuant to the Civil Rights Act of 1964.<sup>1</sup> (Docket Item No. 1.)

On April 25, 2008, the Court issued an Order denying Plaintiff's application to proceed in *forma pauperis*. (Docket Item No. 5.) To date, Plaintiff has not paid the filing fee required for this case, served any Defendants, or otherwise prosecuted this action. Thus, the Court ordered Plaintiff to appear at a hearing set for July 7, 2008 to show cause why the case should not be dismissed for failure to pay the filing fee or to prosecute. (Docket Item No. 6.) Plaintiff failed to appear at the show cause hearing, and, to date, Plaintiff has not filed a certification as required by the Court.<sup>2</sup> In

<sup>1</sup> Mistakenly identified by Plaintiff as the Civil Rights Act of 1871.

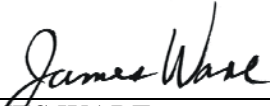
<sup>2</sup> On June 30, 2008, Plaintiff filed an Amended Complaint. (Docket Item No. 7.) However, the filing of the Amended Complaint does not cure Plaintiff's failure to pay the filing fee.

1 the Court's Order setting the show cause hearing, the Court warned Plaintiff that a failure to file the  
2 required certification would result in dismissal of Plaintiff's case pursuant to Rule 41(b) of the  
3 Federal Rules of Civil Procedure.

4 Since Plaintiff has failed to take the actions directed by the Court or otherwise prosecute this  
5 action, the Court DISMISSES Plaintiff's Complaint without prejudice.

6 The Clerk shall close this file.

7  
8 Dated: July 7, 2008

  
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JAMES WARE  
United States District Judge

1 **THIS IS TO CERTIFY THAT COPIES OF THIS ORDER HAVE BEEN DELIVERED TO:**

2 Gary Howard Kidgell  
3 687 Grand Coulee Avenue Apt 1  
4 Sunnyvale, Ca 94087

5 **Dated: July 7, 2008**

**Richard W. Wieking, Clerk**

6 By: /s/ JW Chambers

7 Elizabeth Garcia  
8 Courtroom Deputy  
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